

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

TAMMY TUCKER,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-CV-00148

KILILI KIJAKAZI,
Commissioner of Social Security,

Defendant.

ORDER

Pending are Plaintiff's request to remand, filed on July 30, 2021, [Doc. 10], and Defendant's request to affirm the decision of the Commissioner, filed on October 26, 2021 [Doc. 15]. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on November 10, 2021. Magistrate Judge Aboulhosn recommended the Court deny Plaintiff's request to remand; grant Defendant's request to affirm the decision of the Commissioner; affirm the final decision of the Commissioner; and dismiss this matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis

added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

If the PF&R was delivered by mail, objections in this case were due on November 29, 2021. No objections were received.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 16**], **DENIES** Plaintiff's request for remand [**Doc. 10**]; **GRANTS** Defendant's request to affirm the decision of the Commissioner [**Doc. 15**]; **AFFIRMS** the final decision of the Commissioner; and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: December 21, 2021



Frank W. Volk
United States District Judge